

REMARKS

Claims 1, 4, 6-11, 19-22 and 24-26 are pending in this application. Claim 27-29 are new. No claim has been amended.

I. Rejection under 35 USC § 103

Claims 1, 4, 6-11, 19-22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bebiak, US 6,576,280 and Official Notice.

The Examiner noted that Bebiak does not teach pet calculator. Nonetheless, the Examiner stated that the manufacturing process disclosed in Bebiak “may be viewed as ‘pet calculator’ in a broad scope and content.”

The Applicants respectfully disagree with the Examiner’s characterization of Bebiak for the following three reasons.

First, the Examiner, in sustaining rejection under §35 U.S.C. 103, bears the burden of providing a reasoned analysis as to why Bebiak’s manufacturing process would be obvious to the invention of “pet calculator.” See MPEP 2145. The examiner failed to do so.

Second, as the Examiner did not point out how the manufacturing process is in the Examiner’s view renders the pet calculator obvious, the Applicants are at a loss in understanding the Examiner’s view. Without attempting to guess what was not provided, the Applicants would like to point out how and why the pet calculator is nonobvious to the manufacturing process. For example, the manufacturing process does not teach or concern a pet’s medical needs, which is an element of invention contemplated by the pet calculator. Another example is that the manufacturing process dictates how a customized food packaging is accomplished while the pet calculator is an interactive platform providing information useful to a human pet owner.

Third, the Examiner also bears a burden to determine whether the invention as a whole must have been obvious to the person skilled in the art at the time of the invention. See MPEP 2142. The invention recites pet calculator, pet selector, pet-death service, pet-DNA related services, and the combined use thereof. To sustain a rejection, the Examiner must show why

Bebiak, which lacks any disclosures on pet-death related service, a pet-selector, and pet-DNA related services, renders the present invention obvious. As the Examiner failed to show how Bebiak taught these undisclosed elements, the Examiner's rejection must be withdrawn.

Although the Applicant is convinced that the Examiner's rejection in view of Bebiak was unsupported by legal standards of obviousness, the Applicant hereby submits new claims for the Examiner's consideration in furtherance toward the closure of more than 9 years of prosecution on the present application. None of the claims 27-29 includes new matter. Support for claims 27-28 can be found in paragraphs including 0017 (pet calculator), 0018 (pet selector), 0019 and 0020 (online tribute for commemorating the passing of pets), and 0022 (pet-related DNA services). Support for claim 29 can be found in paragraphs including 0036, 0040, and 0045. None of the arts cited as pertinent reference in the Examiner's May 27, 2009 Office action discloses all four elements recited in the claims 27-29.

CONCLUSION

In light of the remarks set forth above, Applicant believes that all the claims are in condition for allowance. Applicant respectfully requests that this patent application to promptly be passed to issuance. The Examiner is encouraged to telephone the undersigned with any question related to this application.

FEE AUTHORIZATION

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. **23-2415** (Docket No. 30841-703.201).

Respectfully submitted,

Dated: July 22, 2009

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U.S. Appl. No. 10/001,420
Attorney Docket No. 30841-703.201

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